

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

**UNITED STATES OF AMERICA, :
Plaintiff :
v. : Civil No. 3:94-CV-02080 (FAB)
COMMONWEALTH PUERTO RICO, et al. :
Defendants. :**

**JOINT INFORMATIVE MOTION IN COMPLIANCE WITH
ORDERS ISSUED AT ECF 1662, ECF 1703, ECF 1712, and ECF 1751**

The United States and the Commonwealth of Puerto Rico (“the Parties”), through counsel, respectfully file this joint motion, updating the Court on agreed-to benchmarks and emergency hearing orders that together measure the Commonwealth’s progress in achieving certain settlement agreement reforms.

On August 2, 2021, the Parties filed a Joint Informative Motion in Compliance with Order for Agreed Benchmarks, ECF No. 1654. The motion memorialized benchmarks agreed-to by the Parties and the Monitor for measuring the Commonwealth’s progress toward compliance on several prioritized settlement agreement provision. On August 9, 2021, this Court ordered the Parties to jointly file monthly motions documenting the Commonwealth’s progress in meeting the benchmarks. ECF No. 1662. The parties filed the first such joint motion on September 17, 2021. ECF No. 1670 and the second motion on October 15, 2021, ECF No 1678. The third joint motion was filed on November 30, 2021, ECF No. 1684. The fourth joint motion was filed on

December 15, 2021, ECF 1690, the fifth motion on January 14, 2022, ECF 1704, and the sixth motion on February 15, ECF 1713.

On January 13, 2022, ECF 1703, the Court issued an Order memorializing the Court's actions taken during an Emergency Status Conference on January 4, 2022. The order requires that the Parties include updates on the requirements contained in the January 13 Order, to be included in their monthly joint motion. The first set of updates was included in the January 14, 2022 joint motion, ECF 1704, the second was included in the February 15, 2022 joint motion, ECF 1713, and the third joint motion that combined benchmarks with the January 13 order was filed on March 15, 2022, ECF 1722.

With the instant filing, the parties continue to update the original benchmarks and the January 13 Order, and add the requirements of the Court order of April 27, 2022, ECF 1751, wherein the Court ordered that the "benchmark reports shall include updates on any additional order issued as a result of the April 20, 2022 Status Conference unless otherwise specified."

Paragraph	Benchmark
S.A. 31 April 28, 2022 Order, ECF 1757	<p>Completion of work in Ponce and Villalba facilities to comply with Paragraph 31 regarding with federal, state, and/or local building codes.</p> <p>Repairs to CDTS Villalba</p> <ul style="list-style-type: none"> • Contract with Nozomi Contractors was signed on May 16, 2022, with all Nozomi employees cleared by the DCR. • A pre-construction meeting was held on May 24, 2022. • The contractual start date was May 30, 2022, however work could not commence until July 11, 2022 because the contractor's staff contracted Covid and they had to follow quarantine protocols. • The expected completion date remains August 11, 2022. • On January 11, 2022, ECC Contractors, Inc. was selected to complete CDTS Villalba's perimeter fencing project. ECC signed a contract with AFI, the governmental agency managing the project for DCR, on February 28, 2022. On March 8, 2022, the pre-construction meeting was held and the work commenced on March 14, 2022. The project is due to be completed on August 11, 2022. • However, the perimeter fence project was delayed, due to the contractor not receiving needed materials. The contractor will collect the last pending materials and have them available by Monday, July 18, 2022. The repair of the gates of the remote cistern has already begun and it is expected to be completed next week. Work also began on the gates of the main cistern. • DCR and AFI will meet with the contractor on July 19, 2022 to discuss project progress and update anticipated completion dates. • In addition, DCR is awaiting AFI's recommendation on ECC's contract time extension and any additional required work. <p>Repairs to CDTS Ponce</p> <ul style="list-style-type: none"> • On January 11, 2022, A&M Group, Inc. was selected to complete the projects required to comply with Paragraph 31 of the agreement. The contract was signed on March 3, 2022. • On March 9, 2022, the pre-construction meeting was held and A&M Group, Inc. received the Notice to Proceed. Construction commenced on March 14, 2022 and is due for completion by August 11, 2022. • On June 15, 2022, DCR held a meeting with A&M Group to discuss the status of construction, including delays in the project due to materials shortages. Construction was to be commenced on the residential units, and due to the shortage of materials, A&M's representative asked if they could start in the school area. In order not to interfere with the school classes, DCR asked that the construction in the school be commenced once the school year finalized on May 15, 2020. • A&M Group is currently working in the school area. Work is expected to be completed by the end of July. • Regarding the residential area, DCR is awaiting estimates on extensions to various projects due to the aforementioned materials shortages.
S.A. 77 S.A. 78	Purchase and installation of additional video cameras in Ponce and Villalba.

April 28, 2022 Order, ECF 1757	<p>No later than May 31, 2022, the Commonwealth shall provide verification that the video camera purchases for Ponce and Villalba were approved, and the anticipated date they will be received and in operation in both NIJ facilities. The Commonwealth will also show evidence of what it has done and is doing to expedite the order to purchase cameras.</p> <ul style="list-style-type: none"> • Video Cameras: The cameras were purchased through a contract already in place with ASG. The contractor visited the facilities on May 18 and May 26, 2022. <p>By May 31, 2022, the Commonwealth shall report to the Court how it will expedite the purchase and installation of these cameras, and any obstacle it may encounter in doing so.</p> <ul style="list-style-type: none"> • In the Joint Informative Motion filed on May 16, 2022, the DCR informed the Court that to expedite the purchase of the cameras they will tap into an existing contract that GSA has in place for this equipment. <i>See</i> Docket 1765. Using the existing contract will avoid a lengthy bid process. • According to the supplier, the cameras will be delivered by the end of August. Once the cameras are received, the property will be registered in DCR's inventory. Installation will proceed in three phases: <ul style="list-style-type: none"> ○ -Phase 1: Installation of cables ○ -Phase 2: Installation of cameras and equipment to be installed at the Video Surveillance Room. ○ -Phase 3: Configuration of new cameras • Radios: The contract was adjudicated and the purchase order was completed. The radios were received by DCR and on June 3, 2022, they were delivered to CDTs Ponce and on June 6, they were delivered to CDTs Villalba. They have been programmed and the project was completed on June 10, 2022.
S.A. 63 C.O. 36	<p>Solve DCR's inability to regulate housing unit temperatures with the resolution being agreed-to by the Parties and Monitor</p> <ul style="list-style-type: none"> • DCR received a quotation from a contractor for the purchase and installation of temperature regulators. The cost of the proposal was determined to be excessive and the Commonwealth requested that the contractor provide DCR with less-costly alternatives. The contractor submitted an alternative proposal. Following negotiations, the parties reached an agreement. <p>The contractor submitted a proposal based on the agreement, a request for funds was sent to OMB, where the funds were approved.</p> <p>For further updates, see update below regarding Order, ECF 1757.</p>

April 28, 2022
Order, ECF 1757

In the next benchmark report due on May 15, 2022, the Commonwealth shall provide a detailed update to the Court concerning the bidding process and timeframe for getting this done, including what steps the Commonwealth is taking to expedite this process.

- Through the pre-bid process there were 14 companies interested, 7 of them visited the facilities and 4 presented bids. On June 9 the DCR evaluated the bids proposals and submitted to GSA their comments and recommendations. GSA has to adjudicate the bid. The proposals received are within the budget allocated to the project, therefore there should be no issue as to budget. The completion of the project should take 60 days once the construction commences. DCR anticipates that GSA will adjudicate the bid by June 30, 2022.
- On July 12, 2022, the General Services Administration awarded the contract for completion of the temperature regulation project to Alarm & Control System. However, Alarm & Control System has issued conditions prior to commencing work. DCR has requested that the General Services Administration advise them on these conditions.
- A meeting is scheduled for July 18, 2022 for Alarm & Control System's field engineer to visit both facilities to evaluation project logistics.

April 26, 2022
Order, ECF 1749

Mr. Víctor Torres-Rodríguez shall prepare and resubmit a plan for staffing and staffing retention to the Monitor, the DCR and US DOJ that identifies the current, past, and anticipated future obstacles to adequately hire and retain sufficient staffing levels to reach compliance, and how those barriers will be overcome to prevent further cycles of staffing non-compliance. This plan shall include other alternatives to the current staffing levels, including an analysis of possible downsizing, and the legal, economic, community factors which need to be considered.

Monitor Kim Tandy shall convene the parties as well as others who will be available to assist during the week of April 25, 2022 to begin this process.

- The parties and Monitor Tandy, including the Monitor's consultant, Bob Dugan, met to discuss DCR's staffing plan on April 27, 2022.
- DCR's plan for how it will achieve and maintain staffing compliance adequately to keep youth safe, including alternative options, shall be due and filed with the court no later than May 16, 2022. On May 17, the Court granted a Motion for an Extension of Time, ordering that said plan be filed by June 17, 2022. ECF 1767. The Court has granted a further extension and the plan is currently due to be filed on August 17, 2022. ECF 1798.
- The parties and the Monitor have met on several occasions to discuss the staffing plan. On June 6, 2022, a draft of the plan was sent by the DCR to the Monitor and the USDOJ. On June 8, 2022, the DCR submitted an updated draft and held a meeting with the Monitor and USDOJ on that date.
- DCR has a new leadership team working to develop its staffing plan. Ms. Gineima

	<p>Ojeda Richardson will start as Director of Programs of NIJ. The rest of the team consists of Sixto Marrero, Zulma Matías, Doria Martínez, Virgen Vega, and Carmen Malavé. Mr. Sixto Marrero, DCR's Sub-Director has established work groups that are currently working to comply with the Court's deadline.</p> <ul style="list-style-type: none"> • Several conferences have been held between Mr. Sixto Marrero, GPR María del Mar Ortiz and Monitor Kim Tandy, regarding alternatives to consider regarding both secure NIJ facilities for children. The alternatives have also been discussed with US DOJ counsel. • The staff recruitment process that began in January 2022 has continued and is ongoing. On June 21, 2022, DCR appointed 34 new officers and from June 17 through the 30, DCR appointed an additional 12 officers. <ul style="list-style-type: none"> ○ On July 18, 2022, 27 new officers will start at the facilities, 15 at Villalba and 12 at Ponce. ○ The remaining officers will finish their training at the Academy on August 5, 2022 and will be assigned to the facilities on August 9, 2022.
<p>January 4, 2022 Order, ECF 1703</p> <p>April 26, 2022 Order, ECF 1749</p>	<p>Paragraph 2: DCR shall identify a minimum of ten qualified officers to fill open supervisory positions by January 31 and notify the Monitor of the names of these officers once selected.</p> <p>DCR shall provide the names of the sixteen (16) individuals it has identified as possible supervisors to Monitor Tandy no later than May 16, 2022.</p> <ul style="list-style-type: none"> • On May 12, 2022, DCR appointed 10 supervisors, 6 to Villalba and 4 to Ponce. • Since their appointment 3 supervisors assigned to Ponce have resigned. • By July 22, 2022, DCR will review the list of eligible candidates that were not previously promoted and select additional candidates for promotion.

January 4, 2022 Order ECF 1703	<p>Paragraph 8, Due February 2: DRC will examine how the position of Director of Programming can be unfrozen, and shall report this to the Court.</p> <p>A new position of Manager of Programs was created by the DCR, and Ms. Carmen Malavé has been appointed as the Manager of Programs. Per the June 16, 2022-Order, Ms. Kim Tandy interviewed Carmen Malavé and recommended her appointment as Manager of Programs. DCR has no objection and Carmen Malavé will be appointed as Manager of Programs. He appointment will be finalized by the end of next week.</p>
April 27, 2022 Order ECF 1750	<p>DCR shall provide to the Monitor a copy of the credentials of the five individuals under consideration for the position of Manager of Programs along with the criteria used to determine the qualifications and appropriateness of the five candidates being considered no later than April 27, 2022.</p>
May 2, 2022 Order ECF 1759	<p>Before DCR selects a Monitor of Programs, the five finalists will be interviewed by the Monitor, who will make her recommendation as to who should be hired.</p>

	<p>The candidates' credentials were provided to the Monitor and she interviewed 4 candidates on May 18, 2022. The controversy regarding the appointment of the Program Manager has been solved by the parties after much consideration and several meetings to discuss the issue. As a result of the conversations with Ms. Kim Tandy, DCR has appointed Carmen Malavé as the new Program Manager. Ms. Malavé was interviewed by the Monitor and has accepted the appointment.</p>
April 27, 2022 Order ECF 1753	<p>Monitor Kim Tandy provided the parties with the report of Dr. Shiara Francisquini on May 2, 2022.</p> <ul style="list-style-type: none">• The Office of the Monitor has agreed to hire Dr. Francisquini to work with DCR to develop the programs to be selected from her report for implementation in the juvenile facilities.• DCR's core team and Ms. Carmen Malavé will coordinate a working schedule with Dr. Francisquini.

WHEREFORE, the Parties respectfully submit the foregoing for the Court's consideration.

July 15, 2022.

RESPECTFULLY SUBMITTED,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of July, 2022, I electronically filed the foregoing with the Clerk of the Court using CM/ECF system, which will send notification of such filing to all attorneys of record.

/s/Gabriel A. Peñagarícano
GABRIEL A. PEÑAGARÍCANO